

Exhibit 1

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

KATHRYN L. BARKER)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 4:18-cv-502
)	
UHS OF TEXOMA, INC. d/b/a)	
TEXOMA MEDICAL CENTER)	
)	
Defendant.)	

ORAL AND VIDEOTAPED DEPOSITION OF

KATHRYN L. BARKER

APRIL 25, 2019

ORAL AND VIDEOTAPED DEPOSITION OF KATHRYN L. BARKER,
produced as a witness at the instance of the Defendant, and
duly sworn, was taken in the above-styled and -numbered cause
on the 25th day of April, 2019, from 10:08 a.m. to 4:08 p.m.,
before Chrissa K. Mansfield-Hollingsworth, CSR in and for the
State of Texas, reported by machine shorthand, at the Law
Offices of Ronald R. Huff, located at 112 South Crockett
Street, Sherman, Texas, pursuant to the Federal Rules of Civil
Procedure and the provisions stated on the record or attached
hereto.

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1	A P P E A R A N C E S
2	FOR THE PLAINTIFF:
3	Mr. Ronald R. Huff
4	Law Offices of Ronald R. Huff
5	112 South Crockett Street
6	Sherman, Texas 75090
7	903.893.1616
8	ronhuff@gcecispc.com
9	FOR THE DEFENDANT:
10	Ms. Tracy Graves Wolf
11	Lewis, Brisbois, Bisgaard and Smith, LLP
12	2100 Ross Avenue
13	Suite 2000
14	Dallas, Texas 75201
15	214.722.7144
16	tracy.wolf@lewisbrisbois.com
17	ALSO PRESENT:
18	Ms. Stephanie Moore, Videographer
19	
20	
21	
22	
23	
24	
25	

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1	P R O C E E D I N G S
2	VIDEOGRAPHER: Today is Thursday, April 25th.
3	We are on the record at 10:08. This is the videotaped
4	deposition of Kathryn Barker. Will counsel please state their
5	appearances for the record.
6	MR. HUFF: Yeah. My name is Ron Huff. I'm here
7	on behalf of Ms. Barker.
8	MS. WOLF: My name is Tracy Wolf. I'm here on
9	behalf of UHS of Texoma, Inc. doing business as Texoma Medical
10	Center.
11	VIDEOGRAPHER: Will the court reporter please
12	swear in the witness.
13	(Witness sworn in)
14	KATHRYN L. BARKER,
15	having been first duly sworn, testified as follows:
16	EXAMINATION
17	BY MS. WOLF:
18	Q. Good morning, Mrs. Barker.
19	A. Good morning.
20	Q. My name is Tracy Wolf.
21	A. Hi, Tracy.
22	Q. I'm here today to take your deposition. Have you
23	ever been deposed before?
24	A. One time. One time in the way past for TMC.
25	Q. Okay. Do you recall when that was?

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1	A. No. Years and years. I worked there for 20 years,
2	so...
3	Q. Okay. Do you know what type of a matter it was?
4	A. It was a -- it was a -- it was a patient that -- I
5	really don't remember the circumstances, but we had to recall
6	some of the details about their stay at TMC, but I don't really
7	remember anything else.
8	Q. Okay. Well, so far, we're off to a good start, but
9	just to kind of refresh your recollection about depositions.
10	I'm sure Mr. Huff here, your attorney, has gone over some of
11	this with you, but one of the things we have to remember
12	throughout today is that we have a court reporter sitting here
13	with us taking down everything we say. So we need to be
14	cautious not to speak over one another. I'm really bad about
15	that, so we'll have to both work hard together today to make
16	sure that she's able to take everything down that both of us
17	are saying.
18	I will ask that because it is a deposition -- we
19	do have a videographer here, but everything you say will need
20	to -- you to say verbally for the benefit of the court
21	reporter. A lot of times in -- when you're in a conversation,
22	you'll shake or nod your head. We'll need an actual verbal
23	answer so that can be taken down. Also, the court reporter
24	swore you in. You understand, of course, that this is the same
25	as if you were sitting in front of a judge and jury?

<p style="text-align: right;">Page 154</p> <p>1 Q. (By Ms. Wolf) Do you have the exhibits? I don't</p> <p>2 know if I've handed you that one yet or not.</p> <p>3 MR. HUFF: What number is this?</p> <p>4 MS. WOLF: I don't know.</p> <p>5 MR. HUFF: I don't either. Oh, it's that one.</p> <p>6 It is -- let's turn to Exhibit 5. Okay. If you look at the</p> <p>7 page numbers on the very bottom where it says DEF and there's</p> <p>8 000255, I'll ask you to turn to that page. It's about not even</p> <p>9 a quarter of the way into that -- that group of documents.</p> <p>10 A. Okay.</p> <p>11 Q. Do you see this document?</p> <p>12 A. Do I see it? Yes.</p> <p>13 Q. Okay.</p> <p>14 A. I do.</p> <p>15 Q. Do you see what type of document it is? Is it an</p> <p>16 e-mail?</p> <p>17 A. Yes. I see -- is it an e-mail? Yes, I guess.</p> <p>18 Q. And do you see who it's from?</p> <p>19 A. Dayna.</p> <p>20 Q. Do you see who it's to?</p> <p>21 A. Mari Anne.</p> <p>22 Q. Okay. Can you read the second paragraph of this</p> <p>23 e-mail where it starts with, Each speech pathologist?</p> <p>24 A. Each speech pathologist was expected to see six to</p> <p>25 eight patients each day and finish all associated documentation</p>	<p style="text-align: right;">Page 155</p> <p>1 in the eight to ten-hour workday. Not only did Kathy almost</p> <p>2 always see far less patients than other therapists, many days</p> <p>3 as few as two or three, but she frequently put in overtime</p> <p>4 hours to complete documentation despite her light caseload.</p> <p>5 Her colleagues were left covering the extra patients she was</p> <p>6 unable and unwilling to see.</p> <p>7 Q. Is this a true statement?</p> <p>8 A. I was never unwilling to see patients.</p> <p>9 Q. Okay.</p> <p>10 A. That is not a true statement. There -- there were</p> <p>11 times that I would assign them to see a normal load and I would</p> <p>12 do paperwork because I had more responsibilities. I had</p> <p>13 different responsibilities than they had or I had a meeting</p> <p>14 and -- or I had a student that I was working with. And so --</p> <p>15 and did I ever do that when -- when I didn't have that? Maybe.</p> <p>16 Maybe I did, because I had some other something that I was</p> <p>17 supposed to do or I wanted to go back and check on a patient or</p> <p>18 I wanted to see a patient a second time. So, I mean, there are</p> <p>19 many reasons why I would do that.</p> <p>20 Q. Okay. So that would be -- would that be a common</p> <p>21 occurrence or a rare occurrence, then?</p> <p>22 A. Well, in my time there, I would say it was a rare</p> <p>23 occurrence, but it did occur more toward the end because we had</p> <p>24 more therapists and I had more responsibilities other than</p> <p>25 patient care than they did.</p>
<p style="text-align: right;">Page 156</p> <p>1 Q. Okay. Mrs. Barker, do you recall signing an</p> <p>2 arbitration or an ARC agreement at TMC?</p> <p>3 A. What is that?</p> <p>4 Q. An agreement that if any disputes arise, you'll</p> <p>5 consent to go to arbitration?</p> <p>6 A. No, I do not recall anything like that.</p> <p>7 Q. Okay. Did you ever sign an opt-out, that you would</p> <p>8 not agree to arbitrations if any -- arbitration if any dispute</p> <p>9 arised?</p> <p>10 A. I don't recall that.</p> <p>11 Q. Okay.</p> <p>12 A. I don't know how I -- I mean, I don't know how people</p> <p>13 are supposed to remember all these things that might have been</p> <p>14 years ago, but, no, I do not recall either thing.</p> <p>15 Q. When you took courses on the computer at TMC, did you</p> <p>16 receive a certificate of completion?</p> <p>17 A. On some.</p> <p>18 Q. Did you ever receive a certificate of completion</p> <p>19 without completing a course?</p> <p>20 A. I don't -- I don't know. I don't -- I don't know</p> <p>21 what you're referring to, so I --</p> <p>22 Q. Okay.</p> <p>23 A. I can't --</p> <p>24 Q. Do you recall taking courses on HealthStream at TMC?</p> <p>25 A. Yes. We did it every year.</p>	<p style="text-align: right;">Page 157</p> <p>1 Q. Okay.</p> <p>2 A. Most of the time, it was on patient care or drugs or</p> <p>3 medication issues or -- but I don't remember anything about an</p> <p>4 arbitration agreement or anything like that.</p> <p>5 Q. Okay. But when you took the courses on HealthStream,</p> <p>6 you had to click buttons and complete the course in order to</p> <p>7 get the certificate, correct?</p> <p>8 A. Correct.</p> <p>9 Q. Okay.</p> <p>10 A. But we took them every year except some of the sites</p> <p>11 do it a little differently. They have an aide complete all of</p> <p>12 them for all of the therapists, and so they might not know if</p> <p>13 they did it or not.</p> <p>14 Q. Okay. I'm going to ask you to turn to Deposition</p> <p>15 Exhibit Number 6 again. And go to the third from the last</p> <p>16 page. On the subject line, it says, Final written warning</p> <p>17 notification. I'm sorry. Did I direct you to the wrong</p> <p>18 exhibit?</p> <p>19 A. I don't see what you're talking about.</p> <p>20 Q. I think I've made an error.</p> <p>21 MR. HUFF: Exhibit 6.</p> <p>22 Q. (By Ms. Wolf) It's this one right here.</p> <p>23 MR. HUFF: It's Exhibit 6.</p> <p>24 A. Exhibit 6. Right here?</p> <p>25 Q. Sorry. It's that one.</p>


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1 I, KATHRYN L. BARKER, have read the foregoing deposition
 2 and hereby affix my signature that same is true and correct,
 3 except as noted herein.
 4
 5 KATHRYN L. BARKER
 6
 7
 8 STATE OF TEXAS)
 9 SUBSCRIBED and sworn to by the said witness, KATHRYN L. BARKER,
 10 on this the day of
 11 , 2019.
 12
 13
 14
 15
 16 Notary Public in and for
 17 the State of
 18 Commission expires:
 19
 20
 21
 22
 23
 24
 25

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1 STATE OF TEXAS)
 2 COUNTY OF GRAYSON)
 3
 4
 5
 6 I, Chrissa K. Mansfield-Hollingsworth, Certified
 7 Shorthand Reporter duly commissioned and qualified in and for
 8 the State of Texas, do hereby certify that pursuant to the
 9 agreement hereinbefore set forth there came before me on the
 10 25th day of April, 2019, at the Law Office of Ronald R. Huff,
 11 the following named person, to wit, KATHRYN L. BARKER, who was
 12 by me duly sworn to testify the truth and nothing but the truth
 13 of her knowledge touching and concerning the matters in
 14 controversy in this cause; and that she was thereupon carefully
 15 examined upon her oath and her examination reduced to writing
 16 under my supervision; that to the best of my ability the
 17 deposition is a true record of the testimony given by the
 18 witness, same to be sworn to and subscribed by said witness
 19 before any notary public, pursuant to the agreement of the
 20 parties.
 21 I further certify that I am neither attorney nor
 22 counsel for, nor related to or employed by, any of the parties
 23 to the action in which this deposition is taken, and further
 24 that I am not a relative or employee of any attorney or counsel
 25 employed by the parties hereto, or financially interested in

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1 the action.
 2 In witness whereof, I have hereunto set my hand and
 3 affixed my CSR seal this 29th day of April, 2019.
 4
 5
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